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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/051,200	01/17/2002	Stephen T. Garelli	MAC - 206	7246

7590 06/16/2004
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EXAMINER

LUK, EMMANUEL S

ART UNIT PAPER NUMBER

1722

DATE MAILED: 06/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/051,200

Applicant(s)

GARELLI, STEPHEN T.

Examiner

Emmanuel S. Luk

Art Unit

1722

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 March 2004.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-8 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 3-8 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 3 and 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Milner (2304190) in view of Cole (4541795).

Milner teaches the claimed process having an apparatus with an upper mold (14), lower mold (15), a moveable core (24), having a top surface (30) and bottom surface and centered opening (28), each mold segment mating with the other mold segment at their respective confronting flat surfaces (Fig. 1), the mold segments having the concavity running through and exiting through their respective surface (Fig. 1). The moveable core having an outside configuration identical to the concavities of the mold segments (Fig. 1), the core having a stem (23), an air valve (30) operates to control the air flowing through passages (23a, 26a). Milner teaches the mold being clamped

together (Col. 3, lines 18-27), material forms the product around the core in the mold and is cured (Col. 1, lines 9-23), gas is used to release the product from the core (Col. 2, lines 3-6).

Milner fails to teach liquid injected via upper mold opening and texturing of the product by the surfaces.

Cole teaches an injection molding apparatus having a mold cavity (101), where material is injected into the mold via channel (133) through the upper mold (103). Air is injected to the lower mold via channel (191) for ejection of the product from the cavity.

It would have been obvious to one of ordinary skill in the art to modify Milner with material injected through an upper mold opening as taught by Cole because it allows for injection molding in the cavity.

In regards to the texturing by the surfaces, any shape on the surface would provide a texture on the product. Thus, one of ordinary skill in the art would recognize any non-smooth surfaces would provide a texture ranging from a designed pattern to unintentional rough surfaces from the mold surfaces.

4. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Milner (2304190) in view of Cole (4541795) as applied to claims 2, 3 and 5-7 above, and further in view of Takahashi (5089201).

Milner fails to teach making the product from curable silicone materials.

Takahashi teaches an injection method that utilizes silicone material that is injected for curing (Col. 3, lines 26-36), the silicone material is used for its material property and being able to shaped from its liquid state prior to curing.

It would have been obvious to one of ordinary skill in the art to modify Milner with forming the product from curable silicone material as taught by Takahashi because it allows for the production of a molded product made from silicone.

Response to Arguments

5. Applicant's arguments filed 4/24/04 have been fully considered but they are not persuasive. The applicants argue the combination of the Milner reference with the Cole reference, and that Milner does not teach the injection molding and there is no reason to combine. Applicants further argue the combination of Takahashi for the silicone material. Milner teaches the structure of the claimed invention, but it is Cole that discusses the that 'the mold of the invention is particularly useful in situations wherein the core or cores used in molding the closure device are difficult to withdraw from the device after molding'. This motivation allows for the combination of Milner with the injection molding of Cole. The references discuss curable material, Milner describes rubber stock and Cole describes plastic. The material are shaped and cured just as the silicone material is shaped and cured in Takahashi. Therefore, it would be obvious to one skilled in the art to incorporate the silicone material into the mold.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

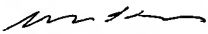
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Emmanuel S. Luk whose telephone number is (571) 272-1134. The examiner can normally be reached on Monday-Thursday 7 to 4 and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda L. Walker can be reached on (571) 272-1151. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EL


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